

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
:
In re : **Chapter 11**
:
LEHMAN BROTHERS HOLDINGS INC., et al., : **Case No. 08-13555 (JMP)**
:
Debtors. : **(Jointly Administered)**
:
-----X

**STIPULATION, AGREEMENT AND ORDER BETWEEN LEHMAN BROTHERS
HOLDINGS INC. AND FIRST NATIONAL BANK**

This stipulation, agreement and order (the “Stipulation, Agreement and Order”) is entered into by and between Lehman Brothers Holdings Inc. (“LBHI”) and First National Bank, a division of FirstRand Bank Limited (collectively, “FirstRand”), by and through their respective counsel. LBHI and FirstRand are each referred to herein as a “Party,” and together, the “Parties,” in this Stipulation, Agreement and Order.

RECITALS

A. On September 15, 2008 (the “Commencement Date”), LBHI commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York. LBHI is authorized to continue to operate its business and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

The General Deposit Account

B. Prior to the Commencement Date, LBHI established and maintained a general deposit account with FirstRand, located in Johannesburg, South Africa. The account number

was No. 9015175, but was changed to No. 10365-DC10F00169 at FirstRand's request in July 2010 (the "Account"). The Account is denominated in South African Rand.

C. Shortly after the Commencement Date, FirstRand placed an administrative freeze on the Account, preventing LBHI from withdrawing any funds in the Account, but still allowing monies to be deposited and/or wired into the Account.

D. With the administrative freeze in place, FirstRand asserted that it was entitled to exercise a setoff against the pre-petition funds in the Account (the "Asserted Setoff of Pre-Petition Funds") in the equivalent amount of \$1,951,582.00 (the "Pre-Petition Setoff Funds").

The Motion

E. On September 15, 2008 and September 19, 2008, FirstRand made certain post-petition credits to the Account in connection with certain trades (the "LBIE Trades") between FirstRand and Lehman Brothers International (Europe) ("LBIE") which FirstRand contends were payable by FirstRand to LBIE, amounting to ZAR 4,179,287 (the "Post-Petition Credits"). Also on September 15, 2008 and September 19, 2008, FirstRand made certain debits to the Account in connection with the LBIE Trades which FirstRand contends were payable by LBIE to FirstRand, amounting to ZAR 6,263,892.31. These credits and debits resulted in a net post-petition debit against LBHI's funds in the Account in the amount of ZAR 2,084,604.65 (the "Net Post-Petition Debit").

F. On January 22, 2010 [Docket No. 6740], LBHI filed the Debtors' Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code for an Order Enforcing the Automatic Stay Against and Compelling Payment of Post-Petition Funds by First National Bank (the "Motion"). By the Motion, LBHI sought the entry of an Order (i) enforcing the automatic stay and directing FirstRand to release the administrative freeze placed on all funds deposited and/or wired into the Account after the Commencement Date; and (ii) compelling FirstRand to

pay LBHI all amounts deposited and/or wired into the Account after the Commencement Date.

The Pre-Petition Setoff Funds were not the subject of the Motion.

G. On March 16, 2010, the Parties executed a stipulation resolving the Motion (the “Motion Stipulation”) whereby FirstRand agreed to transfer to LBHI the post-petition balance in the Account while reserving FirstRand’s asserted rights of setoff with respect to pre-petition funds (the “Asserted Setoff Rights”). Likewise, LBHI reserved its rights to contest, dispute, object to or otherwise challenge such Asserted Setoff Rights, including the Asserted Setoff of Pre-Petitions Funds, in whole or in part. The Motion Stipulation was so ordered by the Bankruptcy Court on March 22, 2010 [Docket No. 7698].

H. Since that time, the Parties have engaged in negotiations with regard to the Account and have reached an agreement.

IT IS HEREBY STIPULATED, AGREED AND, UPON COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

SETTLEMENT

1. The recitals set forth above are incorporated as if fully set forth herein.
2. FirstRand represents that (a) ZAR 16,085,002.47 is the current balance in the Account (the “Balance”), and (b) the Balance consists of all pre-petition deposits including the Pre-Petition Setoff Funds, plus any additional post-petition deposits or transfers into the Account, and all interest accrued on the pre-petition deposits and any post-petition deposits.
3. LBHI acknowledges that the Post-Petition Credits were paid by FirstRand for the benefit of LBIE and not LBHI.
4. Within five (5) business days of the Bankruptcy Court’s approval of this Stipulation, Agreement and Order, FirstRand shall (a) transfer the Balance plus Net Post-Petition Debit to LBHI in accordance with wire instructions to be provided by LBHI to FirstRand; (b)

close the Account; and (c) send LBHI written notice that the Account has been closed at locke.mcmurray@lamcollc.com.

5. In exchange for the Balance and Net Post-Petition Debit, LBHI waives any and all claims and causes of action that LBHI may have against FirstRand in connection with the Account, the Pre-Petition Setoff Funds, and the Asserted Setoff of Pre-Petition Funds, but reserves and retains the right to assert claims and causes of action arising under or in connection with this Stipulation, Agreement and Order.

6. LBHI agrees that, upon payment of the Balance to LBHI, FirstRand may amend its Proof of Claim No. 33312 (the “Claim”) against LBHI solely to reflect FirstRand’s payment of the Pre-Petition Setoff Funds and the Net Post-Petition Debit to LBHI consistent with this Stipulation, Agreement and Order. For the avoidance of doubt, LBHI reserves its right to contest, dispute, object to or otherwise challenge the merits or amount of the Claim as initially filed by FirstRand and/or as amended.

7. Each person who executes this Stipulation, Agreement and Order on behalf of a Party hereto represents that he or she is duly authorized to execute this Stipulation, Agreement and Order on behalf of such Party.

8. This Stipulation, Agreement and Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. This Stipulation, Agreement and Order shall constitute the entire agreement and understanding of the Parties relating to the subject matter hereof and supersede all prior agreements and understandings relating to the subject matter hereof.

10. This Stipulation, Agreement and Order does not amend or otherwise modify the Motion Stipulation except as specifically stated herein.

11. This Stipulation, Agreement and Order may only be amended or otherwise modified by a signed writing executed by the Parties.

12. This Stipulation, Agreement and Order shall be interpreted, construed and enforced exclusively in accordance with the laws of the State of New York.

13. The terms of this Stipulation, Agreement and Order are subject to approval of the Bankruptcy Court and shall be of no force and effect unless and until it is approved.

14. This Stipulation, Agreement and Order shall be effective immediately upon its entry by the Bankruptcy Court.

15. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation, Agreement and Order.

Dated: New York, New York
July 19, 2011

/s/ Richard P. Krasnow
Richard P. Krasnow
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for the Debtors and
Debtors in Possession

Dated: New York, New York
July 22, 2011

/s/ Ronald L. Cohen
Ronald L. Cohen
SEWARD & KISSEL LLP
One Battery Park Plaza
New York, New York 10004
Telephone: (212) 574-1200
Facsimile: (212) 480-8421

Attorneys for First National Bank, a division of
FirstRand Bank Limited

SO ORDERED:

Dated: New York, New York
July 27, 2011

s/ James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge